



Court File No. 265911
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BDO CANADA LIMITED in its capacity
as the Trustee of the Bankruptcy Estates of
CRAIG ALLEN SMITH and ROBERT KYLE SMITH

PETITIONER

AND:

BASTIAN HOLDINGS LTD.
KRYSTLE HOLDINGS LTD.
1226745 B.C. LTD.
SKAW PROPERTIES LTD.
207-53 HASTINGS STREET HOLDINGS LTD.
1226734 B.C. LTD.
27222 LOUGHEED HIGHWAY LTD.
WHITEWATER STEELERS REINFORCING LTD.

RESPONDENTS

RESPONSE TO PETITION

Filed by: BARRY CHARLES HOLDINGS LTD., BECISION HOLDING CORPORATION, G.I.H. PROPERTIES LTD., MCVICAR & COMPANY HOLDINGS INC., TNL DEVELOPMENTS LTD., AMAN GILL, PETER CHAPPELL, SANDRA CHAPPELL, and TERESA GAUTREAU (the "Lenders")

THIS IS A RESPONSE TO PETITION filed August 7, 2026;

The Respondent estimates that the application will take 30 minutes.

Part 1: ORDERS CONSENTED TO:

The Petitioners consent to the granting of the orders set out in the following paragraphs of Part 1 of the Petition:

NONE.

Part 2: ORDERS OPPOSED:

The Petitioners oppose the granting of the orders set out in the following paragraphs of Part 1 of the Petition:

ALL. To the extent that 27222 LOUGHEED HIGHWAY HOLDINGS LTD. is involved in any receivership proceedings.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The Petitioners take no position on the granting of the orders set out in Part 1 of the Petition:

NONE. To the extent that 27222 LOUGHEED HIGHWAY HOLDINGS LTD. is involved in any receivership proceedings.

Part 4: FACTUAL BASIS:

1. The Lenders commenced foreclosure proceedings by way of Petition filed August 8, 2025 in the Supreme Court of British Columbia, Vancouver Registry, Court file number H-250918 (the “**Foreclosure Proceedings**”) with respect to which the Lenders had an *inter alia* mortgage (the “**Mortgage**”) over two (2) properties 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

(the “**Lougheed Property**”)

and

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

(the “**145 Golden Property**”)

2. 27222 LOUGHEED HIGHWAY HOLDINGS LTD. is the registered owner and Mortgagor of the Lougheed Property. 145 GOLDEN DRIVE LTD. was the registered owner and Mortgagor of the 145 Golden Property.
3. SKAW PROPERTIES LTD., WHITEWATER CONCRETE LTD., WHITEWATER DEVELOPMENTS LTD., KRYSTLE HOLDINGS LTD., BASTIAN HOLDINGS LTD., TRILOGY CONCRETE 2021 LTD., ROBERT KYLE SMITH, and CRAIG ALLEN SMITH are covenantors on the Mortgage (the “**Covenantors**”).
4. The 145 Golden Property sold. The Lenders did not receive any funds pursuant to the sale of the 145 Golden Property.

5. The Loughheed Property is a 85,575 square foot commercial manufacturing facility located on 9.3 acres of land. The Loughheed Property is the only asset of 27222 LOUGHEED HIGHWAY HOLDINGS LTD. 27222 LOUGHEED HIGHWAY HOLDINGS LTD. does not own the business operating out of the Loughheed Property. There is currently a lease in place that is set to expire September 30, 2029.
6. The Lenders obtained Order Nisi in the Foreclosure Proceedings on October 27, 2025 granting the Lenders judgment against 27222 LOUGHEED HIGHWAY HOLDINGS LTD. and 145 GOLDEN DRIVE LTD. as Mortgagors, and against SKAW PROPERTIES LTD., KRYSTLE HOLDINGS LTD., BASTIAN HOLDINGS LTD., ROBERT KYLE SMITH and CRAIG ALLEN SMITH as Covenantors in the amount of \$3,245,427.38 with a then per diem interest rate of \$1,064.53 (the “**Order Nisi**”).
7. Judgment against TRILOGY CONCRETE 2021 LTD., 145 GOLDEN DRIVE LTD., WHITEWATER CONCRETE LTD. and WHITEWATER DEVELOPMENTS LTD. was adjourned generally in the Order Nisi.
8. The Lenders obtained an Order for Conduct of Sale with respect to the Loughheed Property in the Foreclosure Proceedings on May 28, 2026 (the “**Order for Conduct of Sale**”).
9. Pursuant to the Order for Conduct of Sale, the Lenders listed the Loughheed Property for sale with Colliers Macaulay Nicolls Inc. (“**Colliers**”) and signed a listing agreement dated June 11, 2026, and listed the Loughheed Property at a price of \$25,999,000.
10. The Lenders have an accepted contract of purchase and sale that currently remains subject to conditions and is set to complete on January 12, 2027 that would be sufficient to pay out all secured creditors with a substantial sum remaining to the benefit of the remaining creditors. Once conditions have been removed, the Lenders intend to bring an Application to Approve the Sale of the Loughheed Property in the Foreclosure Proceedings. The Lenders have receive an additional offer on the Loughheed Property and have advised that party to submit a competitive bid at the anticipated Sale Approval hearing.
11. The Loughheed Property is the sole asset of 27222 LOUGHEED HIGHWAY HOLDINGS LTD.

Part 5: LEGAL BASIS:

1. The appointment of a receiver is extraordinary relief that should be granted cautiously and sparingly. Even if the appointment of a receiver would otherwise be appropriate, the court will consider whether other measures might be employed to fashion a less intrusive remedy.

Textron Financial Canada Ltd. v. Chetwynd Motels Ltd., 2010 BCSC 477 [**Textron**].
Schmidt v. Balcom, 2016 BCSC 2438.

2. To obtain the extraordinary remedy of a court-appointed receiver, the applicant must satisfy the court that the appointment would be “just or convenient.” The court determines whether an appointment would be just or convenient based on the specific circumstances of each individual case. There is no exhaustive list of relevant factors, though factors considered on other applications have included:
 - a. whether irreparable harm might be caused if no order were made, although it is not essential for a creditor to establish irreparable harm if a receiver is not appointed, particularly where the appointment of a receiver is authorized by the security documentation;
 - b. the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of the assets while litigation takes place;
 - c. the nature of the property;
 - d. the apprehended or actual waste of the debtor's assets;
 - e. the preservation and protection of the property pending judicial resolution;
 - f. the balance of convenience to the parties;
 - g. the fact that the creditor has the right to appoint a receiver under the documentation provided for the loan;
 - h. the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulty with the debtor and others;
 - i. the principle that the appointment of a receiver is extraordinary relief which should be granted cautiously and sparingly;
 - j. the consideration of whether a court appointment is necessary to enable the receiver to carry out its' duties more efficiently;
 - k. the effect of the order upon the parties;
 - l. the conduct of the parties;
 - m. the length of time that a receiver may be in place;
 - n. the cost to the parties;
 - o. the likelihood of maximizing return to the parties;
 - p. the goal of facilitating the duties of the receiver.

Maple Trade Finance Inc. v. CY Oriental Holdings Ltd., 2009 BCSC 1527 at para 25.
Textron.
Bankruptcy and Insolvency Act, RSC 1985, c B-3, s. 243(1).

3. An important consideration in determining whether to appoint a receiver is that “a receivership is extraordinary relief which should be granted cautiously and sparingly. Accordingly, if the court can fashion a remedy that avoids receivership, then that is certainly something that should be considered”. A receivership should not be granted if there is a less intrusive remedy that may achieve the same objective. In this case the most cost effective and efficient solution that does not prejudice any party is to simply carve out 27222 LOUGHEED HIGHWAY HOLDINGS LTD. from any receivership order granted.

Cascade Divide Enterprises, Inc. v. Laliberte, 2013 BCSC 263 at para 81.
BG International Limited v. Canadian Superior Energy Inc., 2009 ABCA 127 at para 16.

4. In the present case, the appointment of a receiver over 27222 LOUGHEED HIGHWAY HOLDINGS LTD. would not be just or convenient for reasons including:
 - a. 27222 LOUGHEED HIGHWAY HOLDINGS LTD.’s only asset is the Lougheed Property. No irreparable harm nor prejudice to any party would exist if the Lougheed Property was carved out of any receivership proceeding.
 - b. The Lougheed Property is under the final stages of the Foreclosure Proceedings. Any sale will require court approval. There is no advantage to have a receiver involved and the cost to the secured parties would be unreasonably high. It would also result in unwarranted delay and added complexity without any corresponding benefit.

Coromandel Properties Ltd. (Re), 2023 BCSC 2187, at para 39.

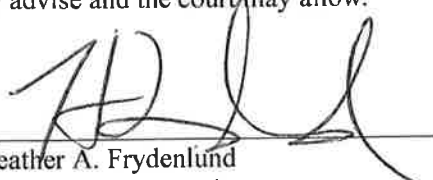
- c. There is no risk of waste to the Lougheed Property.
 - d. Removing the Lougheed Property would not impact a receiver’s ability to carry out its duties with respect to the assets owned by the other Respondents.
5. For all of the foregoing reasons, it is respectfully submitted that the application to appoint a receiver over 27222 LOUGHEED HIGHWAY HOLDINGS LTD. ought to be dismissed.

PART 6 : MATERIAL TO BE RELIED ON

1. Petition, filed August 8, 2025 in the Foreclosure Proceedings;

2. Affidavit #1 of A. Long, filed August 8, 2025 in the Foreclosure Proceedings;
3. Order Nisi, granted October 27, 2025 in the Foreclosure Proceedings;
4. Order for Conduct of Sale, granted May 28, 2026 in the Foreclosure Proceedings;
5. Affidavit #1 of T. Scarlett (realtor) sworn August 21, 2026; and
6. Any further and other materials as counsel may advise and the court may allow.

Dated: August 21, 2026


Heather A. Frydenlund
Solicitor for the Lenders

Lenders' Address for Service:

Brian C. Markus Law Corp.
930 – 777 Hornby Street
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Attention: Brian C. Markus and Heather A. Frydenlund

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