



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MCAP FINANCIAL CORPORATION

PETITIONER

AND:

MASKEEN 177 PROJECTS LTD., 0676086 B.C. LTD., MASKEEN DEVELOPMENT LTD.,
MASKEEN HOMES LTD., 1302095 B.C. LTD., 0943151 B.C. LTD., 0816980 B.C. LTD.,
0816984 B.C. LTD., PRO RIDGE HOMES LTD., PRORIDGE VENTURES INC., JAGDIP
SINGH SIVIA, AMARJIT KAUR SIVIA, JATINDERPAL SINGH GILL, HARBANS KAUR GILL,
PRABHDEV SINGH KHERA, FIRST WEST CREDIT UNION, TAKIO MARINE CANADA LTD.,
VANCOUVER CITY SAVINGS CREDIT UNION, BMW CANADA INC., FRONT STREET
LEASING LP O/A DILAWRI LEASING, OPENROAD LEASING, TD AUTO FINANCE (CANADA)
INC., COUNTRY GREEN EXCAVATING LIMITED, 1299615 B.C. LTD. NEXGEN
ENVIRONMENTAL SERVICES LTD., INTEGRITY SHORING & CIVIL LTD. WITH ASSUMED
NAME: ISC SHORING & CIVIL LTD., MADNESS FORMING & CONSTRUCTION SERVICES
INC. AND PDQ CONSTRUCTION LTD.

RESPONDENTS

APPLICATION RESPONSE

Filed by: Maskeen 177 Projects Ltd., 0676086 B.C. Ltd., Maskeen Development Ltd.,
Maskeen Homes Ltd., 1302095 B.C. Ltd., and 0943151 B.C. Ltd. (collectively, the
"Application Respondents", the "Debtors", or "Maskeen")

To: The Service List, attached to the Receiver's Notice of Application, filed on August
14, 2026.

THIS IS A RESPONSE TO the Notice of Application of the petitioner, MCAP Financial
Corporation, filed on August 14, 2026 (the "Application").

The Application Respondents estimate that the application will take **1 day**.

Part 1: ORDERS CONSENTED TO

The Application Respondents consent to the granting of the Orders set out in the following
paragraphs of Part 1 of the Notice of Application: **NONE**

Part 2: ORDERS OPPOSED

The Application Respondents opposes the granting of the Orders set out in the following
paragraphs of Part 1 of the Notice of Application: **ALL**

The Debtors oppose approval of the Receiver's proposed sale transaction and reverse vesting order if, or to the extent that, such approval would impair, defeat, or extinguish the Debtors' equitable right to redeem the Real Property.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The Application Respondents take no position on the granting of the Orders set out in the following paragraphs of Part 1 of the Notice of Application: **NONE**

Part 4: FACTUAL BASIS

1. Capitalized terms used but not otherwise defined in this Application Response have the meanings given to them in the Receiver's Notice of Application, filed August 14, 2026, and the Second Report of the Receiver, filed August 17, 2026.
2. The Receiver was appointed over the Real Property and related property of the Debtors by Order of this Court made on March 17, 2026.
3. The Real Property consists of three parcels of land located at Lot1: 13714 Bentley Road, Lot 2: 13744 Bentley Road, and Lot 4: 13775 Grosvenor Road, in downtown Surrey, British Columbia, with an aggregate site area of approximately 5.70 acres. The appraised value of Lot 2 alone, based on a "raw land value" is \$22,750,000.00.
4. The Debtors intend to develop the Real Property as part of a project known as the "Victory", a low-rise residential strata development. Lot 2 was intended as Phase 1 with 220 units, Lot 1 was intended as Phase 2 with 344 units, and Lot 4 was contemplated for additional low-rise development.
5. MCAP is the Debtors' senior secured creditor in respect of the Real Property. According to the Receiver, MCAP was owed approximately \$16.5 million as at July 17, 2026, with interest and costs continuing to accrue.
6. The Receiver conducted a court-approved sale process and now seeks approval of an agreement of purchase and sale with 1343239 B.C. Ltd. to be implemented by a reverse vesting order. The proposed transaction would transfer excluded assets, excluded contracts, and excluded liabilities to a residual corporation, vest the purchased interests in the purchaser, and discharge claims and encumbrances other than retained liabilities and permitted encumbrances.
7. The Receiver's sales application is scheduled to be heard on August 27, 2026. The Debtors seek to have a redemption application heard on the same day and prior to the Receiver's Application because approval of the proposed sale transaction may impair, or even extinguish, the practical ability of the Debtors to redeem MCAP's mortgage and preserve the Real Property.
8. The Debtors propose to redeem the Real Property by paying, or arranging for payment of, the amounts properly required to satisfy MCAP's senior secured debt, together with any amounts the Court directs as conditions of redemption.

9. The Debtors will rely on affidavit evidence to be provided addressing the source, timing, and certainty of the proposed redemption funds.
10. The Debtors propose to have the liens and related certificates of pending litigation identified in a Schedule "A" attached to the Notice of Application cancelled under section 24 of the *Builders Lien Act* by posting security in the aggregate amount of \$2,534,772.69, being the total face value of those claims of builders liens, or such other amount and form of security as this Court may direct, without prejudice to the validity, priority, quantum, or enforceability of any lien claim or any defence thereto. The proposed section 24 relief is necessary to permit the redemption and related refinancing or payout transaction to proceed with clear title, while preserving the lien claimants' rights against the substituted security.

Part 5: LEGAL BASIS

A. The Equitable Right of Redemption

1. There is perhaps no area of the law where the contribution of equity is so complete as the law with respect to the enforcement of mortgages.
2. In *355498 B.C. Ltd. v. Namu Properties*, 1999 BCCA 138 [*Namu Properties*], at para. 12, Southin J.A. affirmed the oft-cited judgment of Jessel M.R. in *Campbell v. Holyland* (1877), 7 Ch. 166, that although a mortgage may be absolute in form when the condition is broken, equity treats it as security for a debt and gives relief by way of redemption. Even after an order absolute of foreclosure, the mortgagee remains subject to the Court's equitable discretion, and the mortgagor may still be permitted to redeem.
3. The equity of redemption arises from the relationship between mortgagor and mortgagee. That fundamental relationship was confirmed in *North Vancouver v. Carlisle*, 1922 CanLII 726 (BCCA). In BC, notwithstanding later changes to the *Land Title Act*, R.S.B.C. 1996, c. 250, a mortgage continues to operate as if it were a conveyance with a right of defeasance. The right of defeasance, or equity of redemption, does not arise because foreclosure proceedings are commenced. This is because, as noted in *CIBC v. Burnham*, 1986 CanLII 1032 at para. 11, proceedings for redemption were invented prior to proceedings for foreclosure.
4. The concept of defeasance, or equity of redemption, is the long-standing equitable "golden thread" that runs throughout the mortgage relationship. It informs and constrains enforcement steps taken under a mortgage, including the appointment of a receiver and any subsequent application to approve a sale of the mortgaged property.
5. It is well established that the Court will not permit the right of redemption to be fettered. A term that constitutes a clog on the equity of redemption is unenforceable: *Namu Properties* at paras. 13 and 15.
6. The prohibition against clogs on the equity of redemption protects the inviolability of the mortgagor's right to redeem. The mortgagor is entitled, upon payment of the secured debt, to recover the mortgaged property completely and unimpaired by the terms of the mortgage. The doctrine exists to protect necessitous landowners from oppressive

agreements and from lenders who might take advantage of the mortgagor's vulnerability. Subject only to the mortgagee's power of sale and the Court's foreclosure jurisdiction, a mortgagor cannot be deprived of the property except through a process that tests value and preserves the mortgagor's inviolable right to redeem: *Dical Investments Ltd. v. Morrison* (C.A.), 1990 CanLII 6606 at p. 8; see also *Dhillon v. Jhutee*, 1998 CanLII 5414 (BCSC) at paras. 15–19.

7. The equity of redemption is a concept that equity imposed upon the parties to a mortgage, despite the wording of any agreement to the contrary, as an “inviolable and sacrosanct principle of equity”. In other words, no provision in a mortgage can be construed so as to be inconsistent with the right of redemption - period: *Bank of Montreal v. Beilstein*, 1998 CanLII 6982 (NWTSC) at paras. 11, 15, 17 and 21; *Imor Capital Corp. v. Bullet Enterprises Ltd.*, 2012 BCSC 899 at paras. 12–14.

B. Redemption Remains Available Before Final Sale

8. The equitable right of redemption is a fundamental incident of a mortgage. It permits a mortgagor, or those standing in the mortgagor's position, to recover the charged property by paying the secured debt before the right has been finally foreclosed or displaced by a completed court-approved sale.
9. In *Bank of Montreal v. Hester Creek Estate Winery Ltd.*, 2004 BCSC 724, the Court permitted redemption in a receivership/sale context, set aside a court-approved sale, and adjourned the sale application to permit the bankrupt estate's trustee to redeem by paying the secured creditors in full, stating at para. 27: “Whenever there is a court-ordered sale process, it is always implicit that the conduct of sale is subject to the debtor being able to pay of the secured creditor before a sale is approved by the court.” The case supports the proposition that redemption remains available before final sale approval, absent truly extraordinary circumstances.
10. In *League Assets Corp. (Re)*, 2015 BCSC 619, the Court confirmed that before registration of an order absolute, the mortgagor could pay the mortgage debt and require delivery of discharges. Although decided in the foreclosure context, the principle reinforces that the right to redeem should be preserved until the relevant property interest has been finally and effectively transferred.
11. In *Bank of Montreal v. Haro-Thurlow Street Project Limited Partnership*, 2024 BCSC 47, the Court granted a receivership, but expressly preserved the borrowers' opportunity to redeem by restricting the receiver's sales efforts and sale approval application for a defined period. At paragraphs 91-93, the Court clarified that it is not the granting of conduct of sale that extinguishes the right of redemption, stating: “a redemption can take place at any time prior to a sale being approved by the Court on an application by any receiver.”
12. In *Evanton Limited v. American Bullion Minerals Ltd.*, 2003 BCSC 1958, the Court recognized that a debtor in receivership retained a statutory right to redeem collateral before disposition. The Court declined to order redemption on the facts because no concrete redemption plan had been advanced. Here, the Debtors seek to rely on concrete evidence of the proposed payment and closing mechanics.

13. In *Namu Properties*, the Court reopened an order absolute and ordered reconveyance to the mortgagor on specified terms, holding that equitable relief remained available before a bona fide purchaser obtained certificate of title. The case reflects the Court's broad equitable jurisdiction to prevent the loss of property where redemption can be effected without unfair prejudice up to the very date when title is transferred.
14. The authorities distinguish cases where a sale has been completed or vested in a purchaser. In *Montreal Trust Company v. Brown*, 1974 CanLII 1108 (BC CA), redemption was refused after the judicial sale had been completed by payment of the purchase money into court and vesting in the purchaser. That concern does not arise here because the Receiver's proposed transaction has not yet been approved or completed.

C. Extension of the Redemption Period

15. The Court also has discretion to extend the redemption period in appropriate circumstances, and that discretion may be exercised either before or after expiry of the redemption period: *1103969 B.C. Ltd. v. 1069185 B.C. Ltd.*, 2019 BCCA 73 at paras. 25–28. The governing inquiry is whether the mortgagor has shown that the property provides sufficient value as security for the amount outstanding and that there is a reasonable prospect of repayment within the extended redemption period: *Canada Permanent Mortgage Corp. v. Dan-Al Construction Co. Ltd.*, [1982] B.C.J. No. 239.
16. Both requirements are met here. The Real Property has sufficient value as security for the amounts outstanding, and the Debtors' refinancing proposal provides a reasonable prospect of repayment within the extended redemption period. The law requires a reasonable prospect of repayment, not certainty of repayment, particularly where a short extension may permit full payment of the secured debt and avoid an unnecessary forced sale.
17. In *Bancorp Growth Mortgage Fund II Ltd. v. Rouleur (Woodland) Limited Partnership*, 2021 BCSC 898, the Court adjourned an application for conduct of sale and granted a three-month extension of the redemption period where the respondents had obtained an offer to purchase the properties for an amount exceeding the amount required to redeem. The offer remained subject to conditions precedent in favour of the purchaser, but the Court held that the test was a reasonable prospect of repayment, not commercial certainty, and granted the extension notwithstanding the risk that the purchaser might not remove subjects.
18. Similarly, in *Mission Creek Mortgage Ltd. v. Angleland Holdings Inc.*, 2010 BCSC 1593, the Court granted a six-month extension of the redemption period after the respondents obtained a letter of intent to finance, concluding that refinancing was a reasonable prospect if pursued with vigour and focus: at paras. 15, 30, 31 and 35.
19. A short extension or adjournment is therefore in the best interests of all parties if it permits a refinancing and payout in full. MCAP would receive payment of the senior secured debt, the Receiver's costs and charges can be addressed as conditions of redemption, lien claimants can be protected by substituted security, and the Debtors' equity of redemption would be preserved without impairing the Receiver's ability to return for sale approval if redemption does not complete within the time fixed by the Court.

D. The Court Should Preserve Redemption

20. The Court should therefore preserve and give effect to the Debtors' right of redemption. If MCAP is paid in full, the purpose of the receivership as against the senior secured mortgage debt will be satisfied, there will be no unfair prejudice to MCAP, and the extraordinary relief associated with an RVO will be unnecessary or should at least be adjourned pending completion of redemption. A redemption also provides for security for the lien claimants who are stakeholders in this matter.
21. No order approving a sale has been made. Until the Court approves and implements a final sale (and perhaps even until title has passed), the Debtors' equity of redemption remains available. It should be preserved where MCAP can be paid in full, lien claimants can be protected by substituted security, and any prejudice can be addressed by strict redemption terms.
22. The Court should therefore make the orders in the manner that best preserves redemption while protecting the integrity of the sale process. The Receiver's sale approval application should be adjourned, dismissed, or refused to the extent necessary to permit redemption to complete because approval of the proposed RVO before the redemption proposal is tested would risk defeating the Debtors' equity of redemption. In the alternative, if the Court is not prepared to dismiss or refuse the sale approval application outright, it should adjourn that application and preserve the Debtors' right to redeem for a defined period on strict terms fixed by the Court. If the Court is otherwise minded to approve the Receiver's application, any approval should be expressly subject to a redemption order permitting the Debtors to complete redemption within the time directed by the Court, with the Receiver directed to cooperate by providing payout information, reasonable closing deliverables, and any consents or directions reasonably required for completion.

E. Sale Approval Principles include Preserving Redemption

23. The governing sale approval framework is the four-part test from *Royal Bank of Canada v. Soundair Corp.*, as applied in British Columbia in authorities including *Farm Credit Canada v. Gidda* and *Kruger v. Wild Goose Vintners Inc.*: whether the Receiver made sufficient efforts to obtain the best price and acted providently; whether the sale is in the interests of all parties; the efficacy and integrity of the process; and whether the process was unfair. The Receiver bears the burden of satisfying the Court that those factors support approval.
24. The Court's role is not limited to deferring to the Receiver's commercial preference. Although the Court gives appropriate weight to a receiver's business judgment, it retains an independent gatekeeping role and may refuse or adjourn approval where the proposed transaction is unnecessary, unfair, or fails to properly account for affected stakeholders. *QRD (Willoughby) Holdings Inc. v. MCAP Financial Corporation*, 2024 BCCA 318 confirms that sale approval requires a fair balancing of the *Soundair* factors and that a receiver owes duties to all affected parties, including the debtor and different classes of creditors.
25. On the present application, the central question is not whether the Receiver has found a commercially acceptable purchaser; it is whether sale approval should be granted when

the Debtors seek to redeem before any sale has been approved or completed. *Kruger* recognizes that redemption rights must be balanced against purchaser interests and the integrity of the sale process, and distinguishes *Bank of Montreal v. Hester Creek Estate Winery Ltd.*, where redemption prevented sale approval because the secured debt could be paid in full.

26. This case falls on the *Hester Creek* side of that balance if the Debtors demonstrate a concrete ability to pay MCAP and satisfy the conditions imposed by the Court. MCAP can be protected by payment in full together with interest, costs, Receiver's charges, and any further terms the Court considers necessary. By contrast, approval of the proposed RVO may make redemption practically impossible and may irreversibly transfer the Real Property before the Debtors' redemption proposal is tested.
27. The Court should therefore make the orders in the manner that best preserves redemption while protecting the integrity of the sale process. The Receiver's sale approval application should be dismissed, refused, or adjourned to the extent necessary to permit the Debtors' redemption proposal to be tested because the sale approval analysis cannot be divorced from the Debtors' outstanding equity of redemption.
28. At minimum, the application should be adjourned on strict terms that require the Debtors to establish and complete payment within the time fixed by the Court, while preserving the Receiver's ability to return for sale approval if redemption does not complete. If the Court is otherwise prepared to approve the Receiver's proposed transaction, approval should be expressly subject to a redemption order so that the RVO does not operate to defeat a right that remains available before final sale approval and completion.

F. Builders Lien Relief

29. The proposed section 24 lien relief is integral to redemption. Substituted security preserves the lien claimants' claims while permitting clear title for the redemption or refinancing transaction. It does not determine the validity, priority, quantum, enforceability, or defences relating to any lien claim. It simply prevents title impediments from defeating redemption where the lien claimants can be fully protected by security.
30. Section 24 of the *Builders Lien Act* permits the Court to order that security be posted in place of land so that builders liens may be removed from title while preserving the lien claimant's claim against the substituted security. The purpose of the provision is to allow land to be conveyed, financed, or otherwise dealt with where clear title is required, without finally determining the validity or amount of the lien claim.
31. The lien claimants will not be prejudiced by the requested order because their claims will be preserved against the security ordered by the Court. The relief merely substitutes security for the land and does not determine the merits, priority, quantum, enforceability, or defences relating to any lien claim.
32. The requested section 24 relief is appropriate in this proceeding because cancellation of the liens and related certificates of pending litigation is required to permit the Debtors' proposed redemption transaction to proceed and to avoid defeating the equitable redemption relief through title impediments that can be addressed by substituted security.

Part 6: MATERIAL TO BE RELIED ON

1. The pleadings had and filed in the within proceedings;
 2. The Receivership Order, pronounced March 17, 2026;
 3. The First and Second Reports of the Receiver and the confidential supplement to the Second Report of the Receiver;
 4. Affidavit #1 of A. Cheema, filed January 14, 2026;
 5. Affidavit #1 of B. Kania, to be filed;
 6. Such further and other material as counsel may advise and this Honourable Court may permit.
- ☒ The Application Respondents have filed in this proceeding a document that contains an address for service.

Date: August 21, 2026.

DAN A.T. MOSELEY

Signature of ☒ lawyer for the Application
Respondents, Maskeen 177 Projects Ltd.,
0676086 B.C. Ltd., Maskeen Development Ltd.,
Maskeen Homes Ltd., 1302095 B.C. Ltd., and
0943151 B.C. Ltd.