



No.: S-260086
Vancouver Registry

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, TOKIO 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

Application Response of: Madness Forming & Construction Services Inc. (the “**Application Respondent**” and “**Madness**”).

THIS IS A RESPONSE TO the Notice of Application filed on 21/AUG/2026 (the “**Maskeen NOA**”) of Maskeen 177 Projects Ltd. (“**Maskeen 177**”), 0676086 B.C. Ltd. (“**0676086**”), Maskeen Development Ltd. (“**Maskeen Development**”), Maskeen Homes Ltd. (“**Maskeen Homes**”), 1302095 B.C. Ltd. (“**1302095**”), and 0943151 B.C. Ltd. (the “**Nominee**”, and collectively with Maskeen 177, 0676086, Maskeen Development, Maskeen Homes and 1302095, the “**Debtors**” or “**Maskeen**”).

The Application Respondent agrees with the time estimate provided.

PART 1: ORDERS CONSENTED TO:

1. The Application Respondent consents to the granting of the orders set out in paragraphs 1 – 8 of Part 1 of the Notice of Application.

PART 2: ORDERS OPPOSED:

2. The Application Respondent opposes the granting of the orders set out in NONE of Part 1 of the Notice of Application.

PART 3: ORDERS ON WHICH NO POSITION IS TAKEN:

3. The Application Respondent takes no position on the granting of the orders set out in paragraph 9 and 10 of Part 1 of the Notice of Application.

PART 4: FACTUAL BASIS.

1. Counsel is not available for the hearing of this application and thus relies upon this application response alone.
2. Broadly speaking, Madness resists the application of the Receiver, and supports the application by the Debtors / Maskeen – which includes terms related to the posting of security under s. 24 of the *Builders Lien Act*.
3. The Application Respondent adopts the terms and definitions as set out in the Maskeen NOA, for convenience and reference only.
4. On 18/NOV/2025, the Application Respondent filed a Claim of Builders Lien under CB2461018 against Lot 2 of the Real Property for the sum of \$337,323.41 for formwork and tower crane rental (the “**Lien**”)

McNulty Affidavit #1, Exhibit “A”

5. The Application Respondent respectfully incorporates by reference the facts and arguments from the Application Response filed by Maskeen on 21/AUG/2026 (the “**Maskeen AR**”).
6. The Application Respondent supports the Maskeen AR as this is the more pragmatic approach to dealing with the foreclosure process.
7. The Application Respondent has been provided no information with respect to the Purchase Price and Madness is unable to determine the providence of the proposed transaction. It does however appear that the Reverse Vesting Order (“**RVO**”) contemplated would leave Madness, and all other lien claimants, with no remedy whatsoever.
8. It is unclear with the absence of the price (or any indication in the service materials as to how one obtains the Confidential Supplement), coupled with the proposed terms of the RVO, that any of the lien claimants understand that their lien claims will likely be effectively worthless.
9. It is the Application Respondent’s position that the Maskeen AR and the Maskeen NOA as this allows all lien claimants an opportunity to pursue their claims without extinguishing their rights under the *Builders Lien Act*, SBC 1997, c.45.

Part 5: LEGAL BASIS

10. Maskeen’s proposal secures funds for all lien claimants and is the more practical choice rather than a RVO as a remedy.
11. Pragmatically, while Madness appreciates that the Petitioner is the senior, secured lender, with mortgage security, Madness (and other lien claimants) have actually put in significant

value in constructing the improvement on the Lands, and have significant provided labour and materials. There is a significant unfairness in the RVO that is proposed.

12. The lien claimants have added significant value to the Lands. This has likely improved the purchase price as more of the project has progressed – thus leaving less cost to complete the project. Every indication is that this project is going to continue until it is built according to the original plans.
13. However this results in a “windfall” for MCAP as they stand to realize more on their security than if there were no liens (as the lien claimants would have stopped work immediately after the first time they did not get paid). Instead these folks continued working and supplying material. Under the *Builders Lien Act* they should have had security in the Lands and in the holdback – however the holdback does not exist. Thus their only remedy is in the Lands itself.
14. A RVO remains an unusual and extraordinary remedy: *Harte Gold Corp. (Re)*, 2022 ONSC 653 at para 38. Part of the facts in approving an RVO involve looking at whether any stakeholder is worse off under the RVO. Given the Owner’s cross-application to redeem / extend the time to redeem, and post security under s. 24 of the *BLA* – all lien claimants would be significantly worse off under this proposal.
15. Against the s. 36(3) CCAA factors, Madness notes that it was not properly consulted and the effect of the proposed sale on the creditors and interested parties creates a chilling effect on the construction industry as it removes the security that would otherwise be available to lien claimants. This would send the message to contractors and subcontractors to not extend credit and to cease working and supplying materials as soon as the first default or delay occurs – least the security of a builders lien turns out to be nil.
16. RVOs should not be generally employed under the CCAA and debtors should not seek RVOs to rid themselves of a difficult creditor or to expedite their desired result without regard to the remedial objectives of the CCA: *Quest University Canada (Re)*, 2020 BCSC 1883, at para. 171
17. Madness also relies on the *Builders Lien Act*, SBC 1997, c.45, including ss. 4 and 5 as it relates to the holdback.
18. Madness relies on the law of foreclosure and Rule 21-7 of the *Rules*.

Part 6: MATERIAL TO BE RELIED UPON

19. Affidavit #1 of Sheree McNulty made on 25/AUG/2026

Dated: 25/AUG/2026



PP: Kristina
Pokhilko for:

Signature of Mikhael Magaril
Lawyer for the Respondent

Respondent’s Address for Service:

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