

N. RAKHRA #2
JULY 15, 2009

NO. S090401
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*
R.S.B.C. 2002, c. 57

AND

IN THE MATTER OF 0706033 B.C. LTD.

PETITIONER

A F F I D A V I T

I, **NIRMALJIT (NORM) RAKHRA**, businessman, c/o 1600 - 925 West Georgia, in the City of Vancouver, in the Province of British Columbia, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the President and a director of 0706033 B.C. Ltd. (the "Petitioner"), and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated to be made upon information and belief, and, as to such facts, I verily believe the same to be true.

2. This Affidavit is supplementary to my affidavit sworn January 17, 2009 and the Affidavit of Perdip Moore, sworn February 17, 2009, and to update the Court as to the Petitioner's actions and reorganization efforts since that date. For the purpose of this Affidavit I adopt all definitions as set out in my prior affidavit.

3. Since the last extension was granted in February, 2009, the Petitioner has continued with its efforts to complete the construction of the Development, known as "The Mountaineer". The Petitioner remains of the view that the Development needs to be completed in order to keep the options open and to maintain the best and highest return for all of the project's stakeholders.

4. To this end, the Petitioner has been working with the Monitor, who has control over the Development including the disbursement of the funds required to complete, and with the Royal Bank of Canada as the secured creditor and the lender providing debtor-in-possession financing, to ensure that the completion of the Development is done in a cost efficient and timely manner, to ensure the best and highest return as anticipated.

5. However, the construction of the Development has been delayed due to a number of factors, the most significant of which were structural (causing at least six weeks of delay). The following is a summary of the major issues faced by the Petitioner:

- (a) Balcony Column Stone Replacement: The results of s a pull test by the structural engineer were not to specification, such that the Structural Engineer would not provide the district with the necessary letter of assurance. It was determined that the pre-filing trades had not followed proper installation practices.
- (b) Consultants: Significant time was incurred to complete the design of the Development to address specific design issues that arose because the original design had not been followed, or where parts of the original design were not complete, causing additional field review by consultants. Examples of matters which were not followed or completed as per the original design include the commercial unit storefront glazing assembly, commercial unit steel stud framing at the soffits, stone masonry at the balcony columns, the mechanical system, balcony waterproofing, balcony guards, perimeter soffit and the CT board attachment.

- (c) Soffit Installation and Stucco: Because of concerns over the aesthetics and structural integrity of the soffit, particularly given the use of CT board for them, we had to revise the soffit design and re-install without CT board being used. In addition, the bulkhead was revised to confirm to the original design of stucco finish.
- (d) Interior Stair Rails: The interior hand rails were required to be removed and replaced as they did not meet BC's building code, do to ignorance of the pre-filing sub-trade. Modification to original installation was not feasible.
- (e) Balcony Waterproofing: The architect and envelope engineers both raised concern about future water ingress and noted it as a deficiency in their field reports. It was determined that there was separation of the waterproofing membrane from the wood frame slope structure. The Petitioner had to remove and replace the existing buildup to correct this issue.
- (f) Offsite Works: The initial design did not include streetlights, soft landscaping, street pavers or decorative tree grates, and where therefore not accepted by the District of Squamish.

6. Currently, construction is 97% complete and it is anticipated that construction, assuming there are no further significant issues that arise, will be complete and ready for issuance of an occupancy permit at the end of July, 2009. However, it is expected that a further 3 to 5 months will be required to market, sell and close the sales of the various strata lots.

7. With respect to the marketing and sale, the Petitioner has now, with the consent of the Monitor and the Royal Bank of Canada, developed and marketing and sales strategy for the 25 strata lots, none of which were pre-sold. For the purpose of selling the strata lots, the Petitioner and the Monitor have obtained an appraisal, a strategy report, and two marketing proposals from, in total, four separate parties to assist in the process.

8. Based on the opinions and proposals in the various appraisal/marketing reports, and in accordance with the Order pronounced July 7, 2009, the powers of the Monitor have been expanded to allow it to take all necessary steps to market and list the strata lots, and to ultimately sell them at a minimum price agreed to by the Petitioner, Monitor and Royal Bank of Canada, and to convey clear title by way of a vesting order.


9. In consultation with the Monitor and the Royal Bank of Canada, the Petitioner still believes that the best time to file a Plan will be once the construction of the Development is complete, i.e. the occupancy permit issued, and the majority of the sales of the units closed.

10. Based on the appraisal/marketing reports, it is currently anticipated that the best yield for the creditors will be a sale of the individual strata lots, however, the extension period will also provide the Petitioner, the Monitor and the Royal Bank with the opportunity to also consider, if it is shown that the market conditions are not as anticipated, whether the Royal Bank of Canada loans can be refinanced and the units rented as part of a Plan to be presented to the Petitioner's creditors. This was an option that has been previously looked at, but is currently not considered the best option on which to base a plan.


11. The Petitioner has and will continue to act in good faith and with due diligence, and assist the Monitor as necessary. In this respect, the Petitioner continues to meet with the Monitor and provide all requested information to it.

12. I swear this Affidavit in support of an application by the Petitioner for an Order extending the terms of, and stay of proceedings set out in, the Initial Order pronounced January 19, 2009, and extended by Order pronounced February 17, 2009, to January 19, 2010.

SWORN BEFORE ME at the City of)
Vancouver, in the Province of British)
Columbia, this 15 day of July, 2009.)



A Commissioner for taking Affidavits within)
British Columbia.)



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