

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION (RULES 13(a), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))

VANCOUVER

10-Nov-23

COURT OF APPEAL
REGISTRY

Court of Appeal File No.

CA49441

PARTIES TO THE APPEAL

Appellant(s)

List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

His Majesty the King in Right of the Province of British Columbia

Respondent(s)

List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

1351486 B.C. LTD.
MNP Ltd., in its capacity as court-appointed receiver and manager
Living Beachside Development Limited Partnership
Sunny Beach Motel Inc.
Port Capital Farms (Beach) Inc.
Portliving Farms (3624 Parkview) Investments Inc.
Portliving Farms (3688 Parkview) Investments Inc.
Portliving Farms (3648 Parkview) Investments Inc.
Port Capital Group Inc.
Portliving Properties Inc.
Macario Teodoro Reyes
Port Capital Development (Farms) Inc.
1341550 B.C. Ltd.

This application is in the jurisdiction of:

The Court (3 Justices)

A Chambers Justice

The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the [available chambers dates](#) on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application

1351486 B.C. LTD.

Name(s) of responding person(s) to be served with the application

His Majesty the King in Right of the Province of British Columbia
MNP Ltd., in its capacity as court-appointed receiver and manager

Location where the application will be heard
Enter the address of the courthouse.

800 Smithe Street
Vancouver, BC
V6Z 2E1

Date the application will be heard

21/11/2023

Chambers applications begin at 9:30 a.m.

DD/MM/YYYY

Enter the section(s) or rule(s) that you are relying on for your application

E.g., If you are applying for leave to appeal, enter "Section 31 of the Court of Appeal Act." If you are applying for a stay of proceedings, enter "Section 33 of the Court of Appeal Act."

Section 33 of the Court of Appeal Act
Rule 52 of the *Court of Appeal Rules*
Section 195 of the Bankruptcy and Insolvency Act

Enter the order(s) that you are seeking

E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of _____."

(1) An Order lifting the stay of the Order of the Honourable Mr. Justice Masuhara pronounced on October 27, 2023 (the "RVO") imposed by s. 195 of the Bankruptcy and Insolvency Act to allow the transaction approved by the RVO to close.

(2) An Order that upon closing of the transaction approved by the RVO, the applicant pay into trust \$365,000 (the "PTT Amount").

(3) An Order that the PTT Amount be held in trust and disbursed only pursuant to an order of this Court.

(4) An Order that no party to this Appeal may, if the stay is lifted and the transaction approved by the RVO is completed, assert the Appeal is moot as a result;

(5) An Order that, if closed, the transaction approved by the RVO shall stand and will not be reversed, notwithstanding the results of the Appeal.

Is an application book required?

See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

Yes

No

If you are not required to file an application book, list the affidavit(s) in support of this application

Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

Affidavit #1 of Ricci Cheung, sworn on November 10, 2023

The applicant anticipates that this application will be...

Check only one.

Contested

Uncontested

Email address(es) for service of applicant(s)

If you provide an email address, you consent to have documents served on you by email.

kjackson@fasken.com and tposyniak@fasekn.com

Date form completed

10/11/2023

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Kibben Jackson