

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

17-Aug-22

COURT OF APPEAL
REGISTRY

Court of Appeal File No.

CA48485

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)

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

1296371 B.C. Ltd.

Respondent(s)

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

IN THE MATTER OF THE COPMANIES' CREDIORS ARRANGEMENT ACT, R.S.C. 1985, C. c-36,
AS AMENDED
IN THE MATTER OF THE CANADA BUSINESS CORPORATIONS ACT, R.S.C. 1985, C. c-44, AS
AMENDED
IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF PORT CAPITAL
DEVELOPMENT (EV) INC. and EVERGREEN HOUSE DEVELOPMENT LIMITED PARTNERSHIP
PORT CAPITAL DEVELOPMENT (EV) INC. (Respondent/Petitioner)
AVIVA INSURANCE COMPANY OF CANADA (Respondent/Respondent)
ERNST & YONG INC. (Respondent/Respondent)
SOLTERRA ACQUISITIONS CORP. (Respondent/Respondent)
DOMAIN MORTGAGE CORP. (Respondent/Respondent)
JING CHIANG (Respondent/Respondent)
HYNES GROUP (Respondent/Respondent)

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

129631 B.C. Ltd.

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

Port Capital Development (EV) Inc.
Aviva Insurance Company of Canada
Ernst & Young Inc.
Solterra Acquisitions Corp.
Domain Mortgage Corp.
Jing Chiang
Hynes Group

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

Court of Appeal, Vancouver
800 Smithe Street
Vancouver, BC V6Z 2E1

Date the application will be
heard

September 7, 2022

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."*

Sections 31, 32 and 33 of the *Court of Appeal 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. The Order of the Honourable Madam Justice Fitzpatrick, made July 22, 2022, approving an Agreement of Purchase of Sale entered into on July 22, 2022, be reversed and that the appeal brought by the Appellant be allowed; and
2. The Order of the Honourable Madam Justice Fitzpatrick be stayed pending the hearing of the appeal.
3. Directions be granted for an expedited appeal.
4. The time limited for bringing this appeal be extended to August 15, 2022.

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.

1. Affidavit #1 of Darlene Purdy, sworn August 16, 2022.

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.

BOTH rclark@bridgehouselaw.ca AND dpurdy@bridgehouselaw.ca
Fax deliveries are not accepted for service.

Date form completed

August 16, 2022

Name of lawyer or applicant
authorizing filing of this form

H.C. Ritchie Clark, Q.C.

DD/MM/YYYY