



NO. S-240493
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

FOX ISLAND DEVELOPMENT LTD.
and ADVANCED VENTURE HOLDING CO. LTD.

PETITIONERS

AND:

KENSINGTON UNION BAY PROPERTIES NOMINEE LTD. (formerly known as 34083 YUKON INC.), KENSINGTON UNION BAY PROPERTIES LIMITED PARTNERSHIP, KENSINGTON UNION BAY PROPERTIES GP LTD, INTERNATIONAL TRADE CENTER PROPERTIES LTD., SUNWINS ENTERPRISE LTD., MO YUENG CHING also known as MICHAEL CHING, MO YUENG PROPERTIES LTD., SFT DIGITAL HOLDINGS 30 LTD., HOTEL VERSANTE LTD., BEEM CREDIT UNION, MORTEQ LENDING CORP., CHUN YU LIU, 1307510 B.C. LTD., JEFFREY RAUCH, HEUNG KEI SUNG, and RCC HOLDINGS LTD.

RESPONDENTS

APPLICATION RESPONSE

Application Response of: Kensington Union Bay Properties Nominee Ltd. (formerly known as 34083 Yukon Inc.), Kensington Union Bay Properties Limited Partnership, Kensington Union Bay Properties GP Ltd., International Trade Center Properties Ltd. ("ITC"), Sunwins Enterprise Ltd., Mo Yueng Ching also known as Michael Ching, Mo Yueng Properties Ltd., SFT Digital Holdings 30 Ltd., Hotel Versante Ltd., and 1212429 B.C. Ltd. ("121") (together, "the **Application Respondents**")

THIS IS A RESPONSE TO the Notice of Application of the Receiver, Deloitte Restructuring Inc. (the "**Receiver**") filed October 10, 2025.

The Respondents estimate that the application will take one day.

Part 1: ORDERS CONSENTED TO

The Respondents consent to the granting of the orders set out in the following paragraphs of Part 1 of the notice of application: 1(a), 1(b) (subject to the provisos below), 1(c)(subject to the provisos below), and 1(d), 2, and 3.

Part 2: ORDERS OPPOSED

The Respondents oppose the granting of the orders set out in the following paragraphs of Part 1 of the notice of application: NONE

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The application respondent takes no position on the granting of the orders set out in the following paragraphs of Part 1 of the notice of application: 1(e)

Part 4: FACTUAL BASIS

Overview

1. The Application Respondents generally agree with the relief sought by the Receiver, including the sale of the Hotel (as defined below) to the proposed purchaser Citation Property Holdings Limited. ("Citation").
2. The Application Respondents remain concerned about the Receiver's sale of the Hotel, but recognize that that some amounts ought to be paid to the Petitioners immediately subject to a holdback of proceeds for the potential interests of other parties to the Hotel Parking (as defined below).

Background Facts

The Loan Agreement and Fox Island

3. Certain of the Application Respondents are co-borrowers under a loan agreement, dated June 14, 2021 (the "**Senior B Loan Agreement**"), with the Petitioners, as lenders, as modified by certain amending agreements, and various forbearance agreements.

Affidavit#3 of M. Ching made October 20, 2025, para.2

4. Prior to the Senior B Loan Agreement, certain of the Application Respondents were parties to an earlier Loan Agreement dated November 15, 2019 (the "**November 2019 Loan Agreement**") with Fox Island.

Affidavit#3 of M. Ching, para 6

5. The Senior B Loan Agreement is guaranteed by the Application Respondents Hotel Versante Ltd. ("**Hotel Versante**"), Sunwins Enterprise Ltd, Mo Yeung Properties, SFT Digital Holdings 30 Ltd. and Mo Yeung (Michael) Ching.
6. The purpose of the Senior B Loan Agreement was to finance the development and construction of the Hotel Versante hotel (the "**Hotel**"). During the course of negotiations of the Senior B Loan Agreement and before, Mo Yeung (Michael) Ching ("**Michael Ching**") was in regular contact with Gavin Wang, principal of the Petitioner of Fox Island Development Ltd. ("**Fox Island**"). In 2019, Michael Ching provided Gavin Wang an Information Statement which provided Fox Island the structure of the parking for the International Trade Center project (the "**ITC Project**") Thereafter, Michael Ching and Gavin Wang shared information as to the ITC Project often. Those discussions and information would have revealed the parking structure of the ITC properties and the Hotel to Fox Island.

Affidavit#3 of M. Ching, paras. 5-7

Parking

7. Both the November 2019 Loan Agreement and the Senior B Loan Agreement recognize that ITC as the Borrower was owner of what is known as the ITC Remainder, a single legal parcel which provides parking to the ITC Project including Air Space Parcel 2 ("ASP2"), which consisted of the Hotel. Both agreements acknowledge that 84 spaces in the parkade (the "Hotel Parking") are allocated to ASP2. Strata lot purchasers would similarly have use of parking in the ITC Remainder.

Affidavit#3 of M. Ching, para. 7

8. On May 24, 2019, the air space subdivision creating the Air Space Parcels was completed. The strata subdivision of the other air space parcels, ASP 1, 3, 4 and 5, took place shortly thereafter. The ITC Remainder was not stratified, nor was ASP2.

Affidavit#3 of M. Ching, para. 8

9. On May 24, 2019, a Reciprocal Rights Agreement (the "RR Agreement") was entered into among ITC and the City of Richmond and registered in the New Westminster Land Title Office as charge numbers CA7519726 to CA7519836 as a requirement for the air space subdivision. The RR Agreement was intended to deal with issues among the Air Space Parcels such as easements structural support, access, maintenance and repair and parking and to run with commercial strata lots post strata subdivision. It was not intended to replace the intended creation of leasehold interest for the parking facilities or the partial assignment of the leasehold interest to its respective assignees including the parking stalls intended for use by the Hotel in ASP2.

Affidavit#3 of M. Ching, para. 7

10. On May 30, 2019, as part of the development for the Hotel, and as intended under the Information Statement, ITC and 1212429 B.C. Ltd. ("121") entered into a lease (the "Parking Head Lease") under which ITC leased the entirety of its interest in the parking

stalls in the ITC Remainder to 121. The purpose of the Parking Head Lease was to allow for individual strata lot owners and the strata lot owner associated with the Hotel's operations to be assigned long-term parking interests within the ITC Remainder. Gavin Wang was repeatedly informed by Michael Ching as to the existence of and necessity for the Parking Head Lease.

Affidavit#3 of M. Ching, para. 10

11. Pursuant to the earlier strata subdivision, 119 strata lots were sold and the purchasers in the ITC Project took assignments of the Parking Head Lease from 121. Each purchaser would have been provided copies of the Parking Head Lease.

Affidavit#3 of M. Ching, para. 11

12. On November 5, 2019, 121 assigned the Hotel Parking to Bygenteel Capital Inc. ("Bygenteel"). Bygenteel is the owner of Strata Lots 13&14.

Affidavit#3 of M. Ching, para. 12

13. On July 1, 2021, Bygenteel, leased the Hotel Parking to Club Versante Management Ltd. ("Club Versante") for a term of five years with an option to renew for a further five years.

Affidavit#3 of M. Ching, para. 13

14. On August 15, 2021, Bygenteel entered into a purchase agreement with ITC to revert the Hotel Parking back to ITC for a purchase price of \$6,000,000. The purpose of the transaction was to sell the Hotel along with related assets, such as the Hotel Parking, to a purchaser RCC Holdings Ltd. This transaction did not close.

Affidavit#3 of M. Ching, para. 14

15. Since the principals of Citation began seeking a purchase of the Hotel in 2023, they have (in the name of their affiliate Pacific Aegis Capital Management ("PACM")) engaged in

discussions with Michael Ching and Bygenteel with respect to acquiring the Hotel Parking as well as the Hotel. The baseline price for those discussions has remained at \$6 million.

Affidavit#3 of M. Ching, paras. 16, 20

16. On July 15, 2025, Justice Fitzpatrick granted a consent order whereby the Receiver would be able to sell the Hotel Parking to a purchaser free and clear of any claims of ITC, 121, Bygenteel or Club Versante. The Parking Settlement Approval Order is described in detail in the Receiver's Third Report. At all times the parties agreed that the consent order was necessary to expedite the sale of the Hotel and that entitlement to the Hotel Parking would be considered after approval of a sale and on a full consideration of the parties' rights.
17. Pursuant to that Order, ITC and 121 delivered an assignment of the Hotel Parking under the Head Lease to the Receiver to be delivered to the successful purchaser of the Hotel. Fox Island has not contested that assignment.
18. The Application Respondents have obtained an appraisal of the Hotel Parking which values it at \$4.22 million on a direct comparison approach. This does not account for the potential premium paid for hotel use, or the sale offers by AMTD or PACM with respect to the Hotel Parking.

Exhibit "I" to the Affidavit#3 of M. Ching

Security Opinion

19. Although the Receiver states it has an independent opinion as to the validity of the Petitioners' security, it has not opined on the relative priority of the Parking Head Lease in relation to that security. Furthermore, it has not done any analysis of the Application Respondents' claims with respect to the criminal interest provisions under the *Criminal Code*. The Application Respondents made this request in March 2025.

Exhibit "A" to the Affidavit#1 of Chantelle Wilson Cole

Efforts to Sell the Hotel

20. Since the Order Nisi was granted in this matter in February 2024, Fox Island has had conduct of sale of the Hotel. Various offers have been put forward in respect of the Hotel before and during the Receivership as follows:

Date	Offeror	Purchase Price
May 29, 2024	2254641 Alberta Ltd.	\$76,800,000/\$66,000,000.00
August 16, 2024	PACM	\$65,000,000.00
January 17, 2025	PACM	\$55,000,000.00
May 12, 2025	PACM	\$50,000,000.00/\$44,000,000 (dependent on whether Hotel Parking is included)

Exhibits "D", "E", "F" and "G" to the Affidavit#3 of M. Ching

21. The Application Respondents have commenced a claim against the Petitioners with respect to the *Criminal Code* as well as alleging improvident sale in relation to the offers which were refused by Fox Island.
22. The Receiver has been informed of the various pre-Receivership PACM offers since their appointment.

Part 5: LEGAL BASIS

Approval of Sale

1. The Application Respondents agree that the Citation Sale may represent a commercially reasonable sale of the Hotel. However, there are some concerns that the Application Respondents have with the sale process:

- a. The Receiver indicated that a bid deadline would be July 29, 2025. However, as revealed in the Third Report, negotiations continued with the Preferred Offer purchaser until August 18, 2025, at which time the purchaser advised they would not be proceeding with the Preferred Offer;
 - b. The sales process contemplated a bid deadline and a standard-form purchase agreement. It is not explained in the Third Report why negotiations took almost an additional three weeks and why they had not concluded by August 18, 2025;
 - c. The Receiver had been informed repeatedly about prior offers from other parties, including PACM, and their general value, along with the 30 percent interest rate running on the Order Nisi amounts; and
 - d. Although the Receiver identifies PACM in the Third Report as a potential stalking horse purchaser, it does not identify why that bid was not advanced, whether the price was superior to that before the Court, or, as the Second Report of the Receiver states, what Fox Island's concerns were, or whether the Receiver acceded to those concerns.
2. Given that re-exposure to the market is unlikely to generate a superior offer, and the prejudice the Application Respondents will suffer from increased interest, the Application Respondents have no choice but to concede that an approval of the Citation sale should be approved.

Distribution to Lenders

3. The Application Respondents agree that a distribution to the Petitioners is appropriate, provided that it respects various claims with respect to the *Criminal Code* and that an appropriate holdback be established for priority claims and pursuant to the Parking Settlement Order.
4. Given the evidence provided by the Application Respondents on the value of the Hotel Parking, along with the Parking Appraisal, the Application Respondents state that the holdback under the Parking Settlement Order should be \$6 million at minimum.

5. It would be inappropriate for this Honourable Court to order a distribution to the Petitioners without such a holdback, considering the Application Respondents have commissioned the Parking Appraisal for this purpose and all parties, including the Petitioners, consented to the Parking Settlement Order.

Assignment into Bankruptcy

6. The Application Respondents agree that assignment of Hotel Versante Ltd. into bankruptcy would be appropriate as it would reduce amounts otherwise owed to the Petitioners. However, the Application Respondents do not agree that ITC or the other Debtors as referred to in the Notice of Application should be assigned into bankruptcy. Granting such authority could jeopardize any rights of ITC, 121, Bygenteel, or other strata lot purchasers under the Parking Head Lease.

Approval of the Receiver's Activities

7. The Application Respondents take no position as to the activities of the Receiver. However, as stated above, the conduct of the sale process raises some concerns which have been set out above.

Other Relief

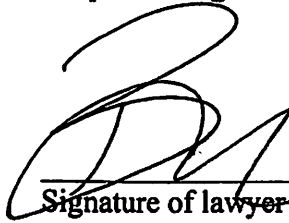
8. The Application Respondents take no position on the other relief sought by the Receiver.

MATERIAL TO BE RELIED ON

1. Affidavit #3 of M. Ching, made October 20, 2025;
2. Affidavit #1 of M. Ching, made April 10, 2025;
3. Affidavit #1 of C. Wilson-Cole, made October 20, 2025;
4. The Receiver's Reports to date herein;
5. The pleadings and proceedings herein; and
6. Such other materials as this Honourable Court may permit.

The Application Respondents have filed in this proceeding a document that contains an address for service.

Date: October 20, 2025

A handwritten signature in black ink, appearing to be 'Benjamin La Borie', written over a horizontal line.

Signature of lawyer for the Respondents,
Benjamin La Borie