



FORCE FILED

No. VLC-S-H-241188  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

TCC MORTGAGE HOLDINGS INC.

PETITIONER

AND:

SHAWN OAKS HOLDINGS LTD.  
LANDMARK SHAWN OAKS DEVELOPMENT LTD.  
LANDMARK PREMIERE PROPERTIES LTD.  
HELEN CHAN SUN  
PETERSON INVESTMENT GROUP INC.  
THE OWNERS: STRATA CORPORATION VR. 855 and  
ALL TENANTS OR OCCUPIERS OF THE SUBJECT LANDS AND PREMISES

RESPONDENTS

**NOTICE OF APPLICATION**

**Name(s) of applicant(s):** Helen Chan Sun and Landmark Premiere Properties Ltd. (the "Applicants")

**To:** The Respondents and to the Petitioner

TAKE NOTICE that an application will be made by the Applicants to the presiding judge or associate judge in Chambers at the Courthouse at 800 Smithe Street, Vancouver, British Columbia, on Friday, January 24, 2025 at 9:45 a.m. for the Order(s) set out in Part 1 below.

The Applicants estimate that the application will take *Two hours*.

*[Check the correct box]*

☐

This matter is within the jurisdiction of an associate judge.

- ☒ This matter is not within the jurisdiction of an associate judge.

**Part 1: ORDER(S) SOUGHT**

1. An Order sealing the appraisal of Altus Group dated September 5, 2024 for the purposes of these proceedings;

**Part 2: LEGAL BASIS**

**SEALING ORDER**

1. The principles as to when public access to a court file may be restricted are set out in *Sahlin v Nature Trust of British Columbia*, citing from the Supreme Court of Canada's decision in *Sierra Club of Canada v Canada (Minister of Finance)*.

The following two-part test applies:

- (a) is the order necessary to prevent a serious risk to an important interest, including a commercial interest, in the context of litigation because reasonably alternative measures will not prevent the risk?
- (b) Do these salutary effects of the sealing order, including the effects on the rights of civil litigants to a fair trial, outweigh its deleterious effects including the effects on right to free expression, which in this context includes the public interest in open and accessible court proceedings.

In considering the first branch of the test, the jurisprudence establishes that the risk must be real and substantial and that the risk is well grounded in the evidence and poses a serious threat to the commercial interest in question.

Second, the phrase “reasonably alternative measures” requires that consideration be given to whether there are reasonable alternatives to a confidentiality order, but also to restrict the order as much as is reasonably possible while preserving the commercial interest in question.

In *Sahlin* the BC Court of Appeal considered whether to seal part of an appeal book that was to be filed by the respondents. The respondents sought the sealing order on the basis that the appeal book contained confidential financial information which, if disclosed, could negatively impact their ability to participate in the sales process. In essence, the respondents did not want other bidders to have the advantage of knowing their financial capacity.

Courts have granted sealing orders during CCAA proceedings where information sought to be sealed contains sensitive competitive information of the parties subject to the CCAA and which could adversely affect those parties and their stakeholders.

In the instant case the sealing order is sought to prevent the publicity of the appraised value of the lands, which will result in information being released to the public which is sensitive information impacting the value of any offers that would be made in any sales process.

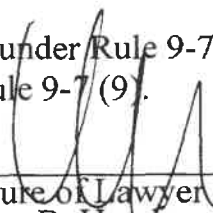
### **Part 3: MATERIAL TO BE RELIED ON**

1. The pleadings and proceedings had and taken herein; and
2. Such further or other material as counsel may advise and this Honourable Court permit.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application:

- (a) file an application response in Form 33;
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed application response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
  - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Dated: January 14, 2025.

  
\_\_\_\_\_  
Signature of Lawyer for the Applicants  
Douglas B. Hyndman  
Kornfeld LLP

***To be completed by the Court only:***

Order made

- ☐ in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this notice of application
- ☐ with the following variations and additional terms:

Date: \_\_\_\_\_

Signature of ☐ Judge ☐ Associate Judge

## APPENDIX

*[The following information is provided for data collection purposes only and is of no legal effect.]*

### THIS APPLICATION INVOLVES THE FOLLOWING:

*[Check the box(es) below for the application type(s) included in this application.]*

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ oral matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts