



Court File No.: S-258449
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, AS AMENDED

AND

IN THE MATTER OF SQUARE NINE KING GEORGE DEVELOPMENT LTD. And
SQUARE NINE BUILDERS INC.

APPLICATION RESPONSE

Application Response of: **AMRN Holding Ltd. and 1137571 B.C. Ltd.** (the
"Application Respondents")

THIS IS A RESPONSE TO the notice of application of FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor of the Petitioners (in that capacity, the "**Monitor**") filed 09/JAN/2026.

The **Application Respondents** estimate that the application will take **0.50 hours**.

Part 1: ORDERS CONSENTED TO

The Application Respondents consent to the granting of the orders set out in **paragraph 2** of Part 1 of the notice of application.

Part 2: ORDERS OPPOSED

The Application Respondents oppose the granting of the orders set out in **paragraph 1** of Part 1 of the notice of application, insofar as its Subsequent Term Sheet to bid on the Commercial Units has not been considered.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The **Application Respondents** take no position on the granting of the orders set out in **NONE** of Part 1 of the notice of application.



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Part 4: FACTUAL BASIS

Overview

1. The Application Respondents oppose the issuance of the current AVO approving the Commercial CPS and vesting title to the Commercial Units in the purchaser because the Commercial CPS is not "fair and reasonable" under CCAA s. 36.
2. It is not fair and reasonable on the current record because:
 - (a) it does not reflect fair market value and includes features that reduce net value to the estate even further (i.e. a \$300,000 vendor credit for improvements); and
 - (b) it would foreclose the Application Respondents from having its competing pathway, a secured subordinate lender credit bid of 10million accepted.
3. The Commercial Units are as legally described in the Application.

Background

4. The Application Respondents are the second-ranking, third-ranking, and fourth-ranking mortgage holders.¹
5. The Application Respondents are owed \$4,327,683.04 as of January 13, 2026, under the Application Respondents' mortgages and related loan documentation in relation to the Belvedere Development (excluding legal costs). Interest continues to accrue at \$2,432.88 per diem.²
6. Every 30 days, \$72,986.40 of interest is owing to Applicant Respondents.³
7. The Monitor seeks approval of a disposition under the Commercial CPS, on the following key terms:
 - (a) purchase price \$8.4 million;
 - (b) completion date January 21, 2026;

¹ Affidavit of Karan Goyal made January 14, 2026 ("**Aff #1. K Goyal**") at para 2.

² Aff #1. K Goyal at para 3, see Exhibit A.

³ Aff #1. K Goyal at para 4.

- (c) purchaser extension rights up to two 30-day extensions;
- (d) vendor credit of \$300,000 for improvements, to be deducted on the statement of adjustments;
- (e) deposit \$400,000 (two instalments) held in trust by the purchaser's solicitor; and
- (f) sale subject to existing leases and occupancy agreements; and conditions precedent originally including financing, lease review, title and strata document review, and other disclosure items.

8. March 21, 2026, is two 30-day extensions from January 20, 2026.⁴

The Secured Subordinate Lenders' Desire to Bid on the Commercial Units

9. On January 9, 2026, after being served with the Notice of Application, the Application Respondents set out concerns with the proposed sale and provided the sales brochure for the sale of one of the Commercial Units.⁵
10. The Application Respondents set out concerns about the Proposed Commercial Sale, including that the sale price appears materially below recent market data, that stakeholders were denied a fair opportunity to submit superior bids, and that the process lacks transparency regarding marketing efforts and competing offers. The Application Respondents also noted that the undervalued sale and ongoing accrual of secured debt materially harm stakeholder recoveries. Importantly, the Application Respondents expressly state their intention to submit a superior, value-maximizing offer comprising both a meaningful cash component and a credit bid, and confirm readiness to proceed on an expedited basis, subject to access to information and some bid procedure.⁶
11. On January 13, 2026, at 3:03 pm, the Application Respondents follow up on their Concerns Letter and provided a term transaction proposal (the "**First Credit-Bid Proposal**") to the Monitor under which the Application Respondents would apply all amounts owing to them as a credit bid component, together with a cash component.⁷

⁴ Aff #1. K Goyal at para 5.

⁵ Aff #1. K Goyal at para 6, see Exhibit B.

⁶ Aff #1. K Goyal see Exhibit B.

⁷ Aff #1. K Goyal at para 7, see Exhibit C.

12. The Application Respondents, through a proposed Newco, proposed to purchase the five Commercial Units for a total purchase price of \$8,700,000, structured as a hybrid cash and credit offer. The offer included a cash component of \$4,372,316.96, payable at closing, and a credit component of \$4,327,683, to be effected through a dollar-for-dollar reduction of secured indebtedness of the Petitioners. Notably, the offer provided a \$600,000 deposit within 48 hours of acceptance. The offer is not conditional on financing, with funding available, and includes an anticipated closing date of February 27, 2026, subject to certain conditions.⁸
13. The Fourth Report of the Monitor indicates that a total of \$550,000.00 was forecast to be drawn down on the Replacement DIP Facility and repaid from the sale of the Commercial Units.
14. On January 13, 2026, at 3:51 pm, the Monitor Responds to the Concerns Letter advising that any proposal must be structured as an all-cash offer due to the existence of priority creditors, as well as a significant GST claim that might potentially rank ahead of the Secured Creditors' mortgages.⁹
15. In response to valuation concerns raised by the Secured Creditors, the Monitor stated that the accepted purchase price reflects current market value in light of the softening real estate market and the marketing history.¹⁰
16. On January 13, 2026, at 5:08 pm, the Monitor sent the First Credit-Bid Proposal to CSMC, inquiring as to what terms would be acceptable to CSMC as a competing bid.¹¹
17. On January 13, 2026, at 8:02 pm, CSMC responded that it was not prepared to support the subordinate lenders' proposal in the draft term sheet, but did not indicate what terms would be acceptable.¹²

The Secured Subordinate Lenders' Subsequent Offer

⁸ Aff #1. K Goyal see Exhibit C.

⁹ Aff #1. K Goyal at para 8, see Exhibit D.

¹⁰ Aff #1. K Goyal see Exhibit D.

¹¹ Aff #1. K Goyal at para 9, see Exhibit E.

¹² Aff #1. K Goyal at para 10, see Exhibit F.

18. On January 14, 2026, the Application Respondents delivered a Subsequent Term Sheet setting out the secured creditors' revised offer for the purchase of the five commercial strata units. The updated bid proposes a total purchase price of \$10,000,000, structured as a cash-and-credit offer. The offer includes:
- (a) a Cash Component of \$5,672,316.96, payable at closing, and
 - (b) a Credit Component of \$4,327,683.04, to be effected through a dollar-for-dollar reduction of the secured creditors' claims;
 - (c) a \$700,000 deposit to be paid within 48 hours of acceptance, with funds held in trust. The transaction would proceed through a similar Approval and Vesting Order, vesting title to Newco free and clear of all encumbrances except permitted encumbrances;
 - (d) Closing is targeted for March 31, 2026, subject to customary conditions including access to the data room, confirmation of leases and arrears, rectification of the strata plan or an agreed holdback, and issuance of a vesting order on commercially reasonable terms.¹³
19. The Monitor has confirmed that no court-approved Sale and Investment Solicitation Process was implemented and that it does not intend to seek approval of a procedure prior to the AVO.
20. The Monitor's record confirms that a higher value offer was received in the amount of \$10.6 million, which failed due to the inability to remove subjects.
21. The Monitor indicates that a total of \$550,000.00 is forecast to be drawn down on the Replacement DIP Facility and repaid from the sale of the Commercial Units

Part 5: LEGAL BASIS

22. CCAA s. 36 requires the Court to be satisfied that the proposed disposition is appropriate in the circumstances. The Court considers the non-exhaustive list of factors as set out in the Application:

¹³ Aff #1. K Goyal at para 11, see Exhibit G.

- (a) whether the process leading to the proposed sale was reasonable in the circumstances;
 - (b) whether the monitor approved the process;
 - (c) whether the monitor filed a report stating the monitor's opinion that the sale would be more beneficial than a bankruptcy;
 - (d) the extent to which creditors were consulted;
 - (e) the effects of the proposed sale on creditors and other interested parties; and
 - (f) whether the consideration is reasonable and fair, taking into account market value.
23. The Court must be satisfied that the transaction is appropriate, fair and reasonable in light of the statutory factors and the integrity and efficacy of the process.
24. The Application Respondents rely on *North American Tungsten Corp., Re*, where the British Columbia Supreme Court approved an asset sale based on a \$4.5 million credit bid. The court emphasized that whether the purchase price was cash or a credit bid, the bid must first satisfy outstanding CCAA charges. The court specifically noted that credit bidding had been approved in other Canadian jurisdictions and there was no reason not to approve such a bid when all other requirements under section 36 were met. Importantly, the credit component should be valued on a dollar-for-dollar basis with a cash bid.
25. There is no court order or sale process that specifically requires an "all cash offer", as such a credit bid on its face is compliant.
26. Units were sold after the Application Respondents became the second-ranking, third-ranking, and fourth-ranking mortgage holders. It appears difficult to understand how there might be a deemed trust GST amount that would take priority over the Application Respondents.
27. A short adjournment to provide a last look by the Monitor is proportionate where multiple secured creditors are providing credible alternatives and where sale approval would otherwise foreclose it.

28. The Application Respondents therefore seek adjournment of the AVO and request the Monitor consider the Subsequent Credit Offer.

Part 6: MATERIAL TO BE RELIED ON

1. Such material as counsel may file and this honourable court may permit, including but not limited to:
 - (a) An Affidavit from Karan Goyal made January 14, 2026; and
 - (b) The Application Record of January 12, 2026.

Dated: 14/January/2026



Signature of lawyer for the Application Respondents, Robert K. Fischer

Petition respondent's address for service:

DWF (Ontario) LLP
Attention: Robert K. Fischer
800 - 123 Front Street West
Toronto, ON M5J 2M2
Phone: 647-805-8859

local service address:
DWF (trading name for WT BCA LLP)
Attention: Meena Lally/Robert K. Fischer
2400 – 200 Granville Street,
Vancouver, BC V6C 1S4

Fax number address for service (if any):

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E-mail address for service (if any):

service.ca@dwfgroup.com
and copied to
robert.fischer@dwfgroup.com

Name of the petition respondent's lawyer, if any:

Robert K. Fischer



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Petition respondent's address for service:

DWF (Ontario) LLP
Attention: Robert K. Fischer
800 - 123 Front Street West
Toronto, ON M5J 2M2
Phone: 647-805-8859

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robert.fischer@dwfgroup.com

Name of the petition respondent's lawyer, if any:

Robert K. Fischer