

18-Jun-26

REGISTRY

FORM 32 (RULE 8-1(4))

No. KAM-S-S63874
Kamloops Registry

In the Supreme Court of British Columbia

Between

PEAK DEVELOPMENTS CORP.

Petitioner

and

G&T ROOFING LTD.

Respondent

NOTICE OF APPLICATION – PAYMENT OUT OF COURT

Name of applicant: D. Manning & Associates Inc., in its capacity as receiver and manager of all of the assets, undertakings and property of Peak Developments Corp. and Peak Developments Limited Partnership (the "Receiver")

To: G&T Roofing Ltd.

TAKE NOTICE that an application will be made by the applicant to the presiding associate judge on the **virtual chambers list** at the courthouse at Law Courts, 455 Columbia Street, Kamloops, British Columbia V2C 6K4 on Wednesday, July 15, 2026 at 9:45 a.m. for the order set out in Part 1 below.

The applicant estimates that the application will take 10 minutes.

This matter is within the jurisdiction of an associate judge.

APPLICANT'S EMAIL ADDRESS: jwilliams@owenbird.com

TO THE PERSONS RECEIVED THIS NOTICE OF APPLICATION:

If you object to this application being heard on the virtual chambers list you must notify the applicant(s), in writing, of your objection within 5 business days after service of this notice of application.

If you wish to participate in the application scheduled on the virtual chambers list you must respond to this application and advise the applicant, in writing, that you wish to participate in the application.

Please review Practice Direction 68 and the Associate Judges Chambers Pilot Project Notice, which are available at

https://www.bccourts.ca/supreme_court/practice_and_procedure/associate_judges_chambers_pilot_project.aspx.

The public may listen to virtual chambers by dialing the following conference line: **604-681-0260** and entering participant code **5862215**.

PART 1: ORDER SOUGHT

1. An order in the form attached hereto as Schedule "A", ordering payment to the Receiver of funds paid into court in this proceeding.

PART 2: FACTUAL BASIS

The Lien

1. On or about October 4, 2024, the respondent filed a claim of lien in the Kamloops Land Title Office as follows:

CLAIM OF LIEN	CLAIMANT	DATE	AMOUNT
CB1635945	G&T Roofing Ltd.	October 4, 2024	\$41,791.48

(the "Lien"), against the lands legally described as:

PID: 031-836-780
Lote 1 District Lot 2378
Kootenay District Plan EPP124173

(the "Lands"), pursuant to s. 24 of the *Builders Lien Act*, S.B.C. 1997, c.45 (the "BLA").

2. The Lands are a development property located in Kimberley, British Columbia.
3. On January 16, 2025, Associate Judge Robinson, on the application of Peak Developments Corp., made an order herein discharging the lien upon payment into court of \$41,791.48.
4. On January 22, 2025, Peak Developments Corp. filed a requisition herein giving notice of payment into court in the amount of \$41,791.48.

The receivership

5. The Lands are subject to a first mortgage and assignment of rents in favour of Peoples Trust Company, registered on December 12, 2022, under CB383780 and CB383781 (the "Mortgage").
6. Prior to the filing of the Lien, Peoples Trust Company had advanced \$15,768,696.81 under the Mortgage.
7. The Mortgage has priority over the money secured by the Lien.
8. On May 6, 2026, Peoples Trust Company made an application to the British Columbia Supreme Court, in Action No. S253365, Vancouver Registry (the "Receivership Proceeding"), for an order appointing D. Manning & Associates Inc., as receiver and manager of all of the assets, undertakings and property of Peak Developments Corp. and Peak Developments Limited Partnership (the "Receiver"). Mr. Justice Milman became seized of the Receivership Proceeding.
9. A number of subsequent Orders were made by Mr. Justice Milman in the Receivership Proceeding and on June 2, 2026, Mr. Justice Milman made an Order approving the sale of the Lands in the amount of \$7,500,000.00, leaving a shortfall owing to Peoples Trust Company. Calculating from the funds advanced under the Mortgage prior to the filing of the Lien, Peoples Trust Company has a shortfall of over \$8,000,000.00, not including interest.
10. The money paid into Court in this proceeding is property of Peak Developments Corp. and subject to the receivership.

PART 3: LEGAL BASIS

11. Rule 23-4(5) of the Supreme Court Civil Rules.
12. Section 32(1) of the BLA, which provides that advances made under a mortgage have priority, unless a lien is filed under the BLA prior to the advance.

13. *Robert F. Kowal Investments Ltd. v. Deeder Electric Ltd.*, 1975 CanLii 681 (ONCA). Although the case deals with the expenses of the receivership, it indicates that a receiver has full power over the property which is subject to the security of the creditor which appointed it.
14. *Integris Credit Union v. Mercedes-Benz Fin. Services Canada Corporation*, 2016 BCCA 231, a British Columbia Court of Appeal decision which approves *Kowal*.
15. The Lien is subject to the security of Peoples Trust Company, which appointed the Receiver. Accordingly, the Lien is property over which the Receiver has control and is subject to the receivership.


PART 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Kim MacDonald, made June 4, 2026.
2. Affidavit #1 of Paul De Luca, made June 16, 2026.

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 proceedings, 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).

Date: June 17, 2026



Signature of lawyer for applicant
Jonathan L. Williams

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

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other 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
- none of the above

SCHEDULE "A"

FORM 35 (RULES 8-4(1), 13-1(3) AND 17-1(2))

No. KAM-S-S63874
Kamloops Registry

In the Supreme Court of British Columbia

Between

PEAK DEVELOPMENTS CORP.

Petitioner

and

G&T ROOFING LTD.

Respondent

ORDER MADE AFTER APPLICATION

BEFORE)	ASSOCIATE JUDGE)	18/JULY/2026
))	

ON THE APPLICATION of D. Manning & Associates Inc., in its capacity as receiver and manager of all of the assets, undertakings and property of Peak Developments Corp. and Peak Developments Limited Partnership coming on for hearing in Associate Judges Virtual Chambers on the 15/July/2026 and on hearing Jonathan L. Williams, counsel for the applicant, and no one else appearing;

THIS COURT DECLARES AND ORDERS THAT:

1. The sum of \$41,791.48 paid into the Kamloops Registry of this Court pursuant to the order of Associate Judge Robinson, made herein on January 16, 2025, together with accrued interest, if any, be paid out of Court to D. Manning & Associates Inc., in its capacity as receiver and manager of all of the assets, undertakings and property of Peak Developments Corp. and Peak Developments Limited Partnership.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

BY THE COURT

Signature of Jonathan L. Williams, lawyer for
D. Manning & Associates Inc., in its capacity
as receiver and manager

REGISTRAR