

FORM 109 (RULE 22-2 (2) AND (7))

This is the 2nd Affidavit
of Kim MacDonald in this case
and was made on August 25, 2025

No. S253365
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

PEOPLES TRUST COMPANY/COMPAGNIE DE FIDUCIE
PEOPLES

Petitioner

and

PEAK DEVELOPMENTS CORP., PEAK DEVELOPMENTS
LIMITED PARTNERSHIP, WESTCASTLE HOLDINGS LTD.,
WESTCASTLE LAND DEVELOPMENTS CORP.,
BOULEVARD CONSTRUCTION CORPORATION,
RIVERVIEW CUSTOM HOMES LTD., PHIL SALGADO, also
known as PHILIP SALGADO, CHRIS YORK, also known as
CHRISTOPHER YORK, MACKAY CONTRACTING LTD.,
KULKON CONSTRUCTION CORP., 1111053 B.C. LTD.
DOING BUSINESS AS JJ MECHANICAL, GAUER POWER
LTD., IKA BUILDERS INC., 689048 ALBERTA LIMITED,
STEVEN DOUGLAS HOWG, also known as STEVEN
DOUGLAS HOWG doing business as STP PAINTING,
JOHN DOE AND ALL TENANTS OR OCCUPIERS OF THE
SUBJECT LANDS AND PREMISES

Respondents

AFFIDAVIT

I, KIM MACDONALD, of 2900 – 733 Seymour Street, the City of Vancouver, in the
Province of British Columbia, AFFIRM THAT:

1. I am a legal assistant of Owen Bird Law Corporation, solicitors for the petitioner,
People Trust Corp., and as such have personal knowledge of the matters hereinafter
deposed to, save and except where the same are stated to be based upon information
and belief, and where so stated I verily believe the same to be true.

2. Attached hereto as Exhibit "A" to this Affidavit is a true copy of an email received by Owen Bird on August 24, 2025, from Mr. Cal Harvey.

3. Attached hereto as Exhibit "B" to this Affidavit is a true copy of an attachment to an email received by Owen Bird from Mr. Cal Harvey on August 24, 2025.

SWORN BEFORE ME at the City of
Vancouver, in the Province of British
Columbia, this 25 day of August,
2025.



A Commissioner for taking Affidavits for
British Columbia

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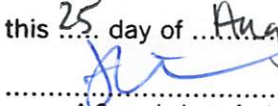


Kim MacDonald

JONATHAN L. WILLIAMS
Barrister & Solicitor
P.O. Box 1
2900-733 SEYMOUR STREET
VANCOUVER, B.C. V6B 0S6
(604) 691-7562

Jonathan Williams

From: Cal Harvey <charvey@tribusdevelopments.com>
Sent: Sunday, August 24, 2025 7:55 PM
To: Jonathan Williams; William Choo
Subject: Re: Kimberley Crossing winterization work

This is Exhibit " A " referred to in the
affidavit of Kim MacDonald
sworn before me at Vancouver, BC
this 25 day of August, 2025

A Commissioner for taking Affidavits
within British Columbia

[External Email – Use Caution]

Mr. Williams,

It is urgent that we begin the Kimberley Crossing winterization work outlined in Schedule A - Kimberley Crossing Costs to Winterize May 6, 2025 to October 31, 2025. Kimberley, BC is a ski resort community. Winters are cold, with temperatures as low as -35C, and an average annual snowfall of 1.4m. Kimberley typically receives its first snowfall the last week of October or the first week of November, meaning we have just over two months to complete a long list of necessary work to preserve the site for winter. Delays will jeopardizing the project.

Two of the eight existing buildings at Kimberley Crossing have no exterior doors and / or windows installed and are completely exposed to the elements. Five of the eight existing buildings don't have garage doors installed. Some of the Kimberley Crossing deficiencies that have cost hundreds of thousands of dollars to remediate (e.g. - frozen sprinkler lines; damaged sprinkler heads) were caused because these buildings sat open and unprotected last winter; if the buildings are not winterized this year, that money and effort will have been wasted. Project architect Nick Vale has expressed to me his concern about Kimberley Crossing being left unprotected for a second winter, suggesting that if winterization work doesn't occur two of the existing buildings may be rendered beyond repair by exposure to the elements and need to be torn down.

Winterization of the site is not "extra" work, it is simply work contemplated as part of the project completion plan that has become urgent with the pending arrival of winter. The work wasn't started earlier because the City of Kimberley placed a stop work order on the project in December 2024. Remediation of extensive deficiencies to all buildings was required by the buildings inspector prior to lifting the stop work order, which occurred on August 20, 2025. Necessary winterization work includes, but is not limited to, connecting the project site to BC Hydro, powering up all electrical panels in all buildings, and getting 220V power to stove and dryer plugs in all 56 units in order to run electric heaters to preserve water and sprinkler lines over winter. Civil infrastructure like water, sanitary and storm pipes, which were installed at incorrect elevations by a previous contractor, must be adjusted to meet engineered design grades. Sub-base materials must be hauled, placed and compacted to protect the civil infrastructure and create solid surfaces which will allow the site to be plowed and maintained over winter. Garage doors, exterior doors, and windows must be purchased and / or installed, and repairs to and completion of exterior insulation and cladding is necessary. Proper gable and roof venting must be installed in all buildings to remedy extreme roof icing that results in huge chunks of ice building up then falling off 3- and 4-storey roofs, which is an urgent safety concern.

All scopes of winterization work have been tendered, and contracts for the work are waiting to be signed. If authorization to proceed isn't received August 25, 2025 then the contractors lined up to do this work will move on to other projects and be unavailable to us until late September 2025. If a decision on winterization work is

deferred we will not be able to complete the necessary site preservation work in time, likely rendering at least two of the buildings unusable and further damaging the project's civil infrastructure.



Cal Harvey | MBA, MA
President
604.353.8508



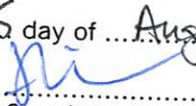
August 24, 2025

Cal Harvey
President
Tribus Developments

Cal,

Re:

Kimberley Crossing, Kimberley
Winterization

This is Exhibit " B " referred to in the
affidavit of Kim MacDonald
sworn before me at Vancouver, BC
this 25 day of August, 2025

.....
A Commissioner for taking Affidavits
within British Columbia

beck|vale

Principals

• G.H. Beck, Architect
M.E.Des.(Arch), AAA, AIBC, MAA, SAA,

• N Vale, Architect
M.Arch., AAA, AIBC, MAA, SAA,

200, 211 – 17th Avenue SE.
Calgary, Alberta, Canada T2G 1H5
(403) 262-8511
valen@beckvale.ca

All of the buildings are at various stages of construction and are not weather tight. Exposed insulation, foundations and, specifically, interior finishes are not designed to be exposed to elements and will degrade quickly when exposed to winter weather. Exposure to Kimberley's extreme freeze/thaw cycles and movement, and subsequent condensation/mould, may necessitate the removal of damaged construction and, possibly, require the complete replacement of some buildings.

The City of Kimberley Fire Department has expressed concern regarding the state of the site and building security. Should the site not be properly prepared for winter, and a fire start, it would be almost impossible to access and contain and would expose fire fighters to high risk of injury.

We are advocating that the following work be completed immediately to facilitate heating the buildings through the winter months, along with providing building security:

Install all exterior doors and construction lock sets in all buildings. Power up 220v outlets to enable heating of all buildings. Finish installation of insulation and some drywall where necessary.

Install garage doors in all B-buildings and C-buildings and install bedroom windows in B-buildings where necessary. Protect all installed insulation, drywall, and finishes.

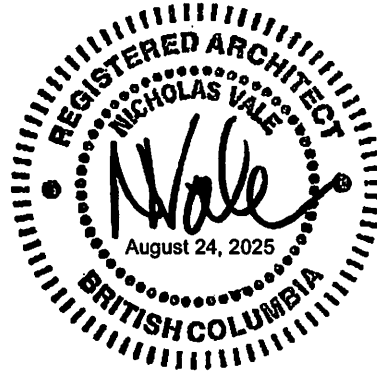
We are urging completion of all building envelopes to the stage that will prevent UV degradation of exterior insulation and provide thermal insulation to facilitate efficient heating of the buildings. This includes completing installation of the exterior wall / attic batt insulation and vapour barrier, and completion of the exterior siding on the A-1, A2, B-1 and B-2 buildings.

/2

Although not urgently required as part for site preservation over winter, the completion of drywalling in all A and B buildings would be beneficial to maintain the long-term integrity of the vapour barrier.

Yours truly,

Nick Vale, Architect, AAA, AIBC, MAA, SAA
Principal



No. 253365
Vancouver Registry

PEOPLES TRUST COMPANY/COMPAGNIE DE
FIDUCIE PEOPLES

Petitioner

and

PEAK DEVELOPMENTS CORP., et al.

Respondents

AFFIDAVIT

OWEN BIRD LAW CORPORATION

P.O. Box 1
Vancouver Centre II
2900 – 733 Seymour Street
Vancouver, BC V7B 0S6
Attention: Jonathan L. Williams
File No. 23868-1852
